

LAW OFFICES OF DALE K. GALIPO
Dale K. Galipo (Bar No. 144074)
dalekgalipo@yahoo.com
Eric Valenzuela (Bar No. 284500)
evalenzuela@galipolaw.com
21800 Burbank Boulevard, Suite 310
Woodland Hills, California 91367
Telephone: (818) 347-3333
Facsimile: (818) 347-4118

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ALEXANDRA RASEY-SMITH, et al.,

Plaintiffs,

vs.

CITY OF LOS ANGELES, et al.,

Defendants.

Case No. 2:24-cv-03265-MWC-SSC

Honorable Michelle Williams Court

**PLAINTIFF'S NOTICE OF
MOTION AND MOTION TO
AMEND THE
COMPLAINT/MODIFY THE
SCHEDULING ORDER;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFFS' MOTION TO
AMEND**

Declaration of Eric Valenzuela,
[Proposed] Order and Redlined First
Amended Complaint *filed concurrently
herewith*

Date: February 21, 2025

Time: 1:30 p.m.

Crtrm.: 6A

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

PLEASE TAKE NOTICE that on February 21, 2025, at 1:30 p.m. or as soon
thereafter as this matter may be heard in Courtroom 6A of the above-entitled Court,
Plaintiffs will and hereby does move the Court for leave to file a First Amended
Complaint or in the alternative to modify the scheduling order in Case No. 2:24-cv-

1 03265-MWC-SSC. Plaintiffs make this Motion under Federal Rule of Civil
2 Procedure 15 on the grounds that justice requires leave to amend.

3 This motion is made after reaching out to defense counsel who indicated they
4 did not agree to stipulate to amending the Complaint to include the shooting officer,
5 Caleb Garcia Alamilla, as a named defendant. This Motion is based on this Notice
6 of Motion and the separate Memorandum of Points filed concurrently herewith, the
7 records and files of this Court, and all other matters of which the Court may take
8 judicial notice of.

9
10 DATED: January 14, 2024

LAW OFFICES OF DALE K. GALIPO

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12 By /s/ Eric Valenzuela
13 ERIC VALENZUELA
14 Attorney for Plaintiffs
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiffs hereby seek leave of Court to file a First Amended Complaint to
4 conform their allegations and claims for relief with additional information that
5 recently was discovered. Plaintiffs have learned, after obtaining Defendants'
6 Responses to Plaintiffs' Request for Production of Documents, that they have a
7 basis for naming the individual officer involved in the incident that resulted in the
8 death of the decedent, Jason Maccani. All of this information was previously
9 unavailable to Plaintiffs but was in the possession, custody, or control of Defendant.

10 This case arises out of the fatal shooting of the decedent, Jason Maccani, by
11 Officer Caleb Garcia Alamilla of the City of Los Angeles Police Department. The
12 Plaintiffs only recently learned of the name of the shooting officer. Plaintiffs'
13 motion for leave to amend their complaint should be granted because justice so
14 requires.

15 The operative pleading is currently Plaintiffs' Complaint For Damages, filed
16 April 19, 2024, which asserts six claims: (1) Unreasonable Search and Seizure—
17 Excessive Force (42 U.S.C. § 1983); (2) Unreasonable Search and Seizure—Denial
18 of Medical Care (42 U.S.C. § 1983); (3) Substantive Due Process (42 U.S.C. §
19 1983); (4) Battery (Survival and Wrongful Death); (5) Negligence (Wrongful Death)
20 and (6) Violation of the Bane Act (Cal. Civil Code § 52.1). Plaintiffs' Complaint
21 for Damages is replete with allegations against Does 1-10. Plaintiffs' motion for
22 leave to amend in order to name one Doe Defendant should be granted because
23 justice so requires. In the alternative, good cause exists to amend the scheduling
24 order allowing Plaintiffs additional time to amend their Complaint.

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26 **II. LEGAL STANDARD**

27 Under Rule 15, "leave shall be freely given when justice so requires." FED.
28 R. CIV. P. 15(a). This policy is applied with "extreme liberality." *Eminence*

1 *Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003); *Morongo Band*
2 *of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990). Denial of a motion
3 to amend is appropriate only when the opposing party makes a showing of undue
4 prejudice, bad faith, or dilatory motive on the part of the moving party. *Foman v.*
5 *Davis*, 371 U.S. 178, 182 (1962); *Martinez v. City of Newport Beach*, 125 F.3d 777,
6 785 (9th Cir. 1997).

7 8 **III. ARGUMENT**

9 **A. Plaintiffs Satisfy The Liberal Amendment Standard Of Rule 15**

10 Plaintiffs' proposed amendment easily satisfies Rule 15's liberal policy
11 favoring amendment. Plaintiffs seek leave to substitute Officer Caleb Garcia
12 Alamilla in place of a Doe defendant. Plaintiffs' reason for seeking relief is that,
13 after recently reviewing discovery responses from Defendant, Plaintiffs have learned
14 that Caleb Garcia Alamilla was the shooting officer who used excessive deadly
15 force against the Decedent and violated his constitutional and state rights, including
16 the state rights of the Plaintiffs. Justice so requires that Plaintiffs be permitted to
17 bring their claims against the proper Defendants.

18 The Court set the last day to hear a motion to amend for January 17, 2025.
19 See Court's Order [Doc. #30] at 3. Defense counsel previously put the Court on
20 notice that the defense anticipated delays regarding "important discovery that
21 Plaintiffs are anticipated to demand" because this incident is being investigated by
22 the LAPD's Force Investigation Division (FID), which may go on for up to one year
23 after the incident, and all FID materials are confidential pending the investigation.
24 For this reason, virtually no discovery materials are yet available to Defense
25 Counsel." See Joint Scheduling Report [Doc. 14] at 4:8-16. For these reasons, the
26 parties requested a trial date on February 17, 2026. *Id.*

27 Defendants' Responses to Plaintiffs' Request for Production of Documents
28 did not contain any of the investigation materials regarding the shooting, including

1 the Force Investigation Division Report, and the recorded interviews of the involved
2 officers. Valenzuela Decl. at ¶ 4. These missing materials would clearly identify
3 the shooting officer(s). In fact, only recently did defense counsel learn of the name
4 of the shooting officer. See January 13, 2025, Email from Defense, attached hereto
5 as Exhibit “A”. Instead, Defendants’ discovery responses contained almost 1,500
6 documents, none of which clearly identified the name of the shooting officer.
7 Valenzuela Decl. at ¶ 6.

8 After recently reviewing these documents again, Plaintiffs’ counsel
9 discovered one line in one of the reports which indicated that Officer Caleb Garcia
10 Alamilla was monitored after his OIS (officer involved shooting). See Watch
11 Commander’s Daily Report, attached hereto as Exhibit “B”, at 2; Valenzuela Decl.
12 at ¶ 7. Many of the other reports also made mention of all involved officers being
13 monitored after the OIS. Valenzuela Decl. at ¶ 8.

14 Although unclear, Plaintiffs’ counsel assumed that this was the name of the
15 shooting officer. Based on this recently discovered information, on January 2, 2025,
16 Plaintiffs’ counsel emailed the defense and inquired as to whether the Defendants
17 would stipulate to amend the complaint to add Officer Caleb Garcia Alamilla as a
18 named defendant. See Plaintiffs’ Counsel’s Email, attached hereto as Exhibit “C”.
19 Even defense counsel was surprised that Plaintiffs’ counsel knew the name of the
20 shooting officer because defense counsel only recently learned the name of the
21 shooting officer and it was not clear based on the reports that Defendants had
22 previously produced in discovery. See Exhibit “B”, Email from Defense. The
23 defense even inquired as to whether Plaintiffs learned the name of the shooting
24 officer from a source outside of the instant litigation (since it had not been clearly
25 disclosed in the Defendants’ previously produced documents). *Id.* Plaintiffs’
26 counsel notified the defense that although it was unclear from the voluminous
27 reports produced, one line in one of the reports indicates that Officer Caleb Garcia
28 Alamilla was monitored after his OIS. See Plaintiffs’ Counsel’s Email, attached

1 hereto as Exhibit “D”. On January 13, 2025, Defense Counsel notified Plaintiffs’
2 counsel that they would not stipulate to amending the complaint. See Email from
3 Defense Counsel, attached hereto as Exhibit “E”. This response by the defense
4 came as a surprise since our respective offices routinely stipulate to amend the
5 complaint to add the shooting officer in these types of cases. Valenzuela Decl. at ¶
6 13.

7 Defendant will suffer no prejudice if the Court grants Plaintiffs leave to
8 amend their Complaint. The City of Los Angeles’ Police Defendant has been well
9 informed of the identity of the officer involved during the incident which occurred
10 on February 3, 2024, and the defense has had significant time since then to obtain
11 the relevant factual information underlying the incident. Moreover, discovery is
12 only in its initial stages, and Plaintiffs anticipates that both sides will continue to
13 propound written discovery and take depositions of the involved parties. To date the
14 Plaintiffs still do not have the investigation materials regarding the shooting, and
15 have sent a meet and confer letter to the defense to compel said documents. The
16 defense has indicated that now that the review board has concluded, that the
17 documents would be produced after a protective order is in place. See December
18 20, 2024, Email from Defense Counsel, attached hereto as Exhibit “F”.

19 **B. Good Cause Exists To Modify Scheduling Order**

20 A party seeking to amend a scheduling order must show “good cause.”
21 Fed.R.Civ.P. 16(b)(4). “Rule 16(b)’s ‘good cause’ standard primarily considers the
22 diligence of the party seeking the amendment.” *Johnson v. Mammoth Recreations,*
23 *Inc.*, 975 F.2d 604, 609 (9th Cir.1992). The schedule may be modified “if it
24 cannot reasonably be met despite the diligence of the party seeking the extension.”
25 *Id.* (quoting Fed.R.Civ.P. 16 advisory committee’s notes (1983 amendment)).
26 Prejudice to the opposing party may supply additional reasons to deny an extension,
27 but the focus of the inquiry is on the moving party’s reasons for seeking
28

1 modification. *Id.* Here, good cause exists to modify the scheduling order, because,
2 just as the defense anticipated, there has been a delay in producing the requested
3 investigation materials which clearly identify who the shooting officer is. The
4 defense only themselves recently learned the identity of the shooting officer, and a
5 modifying the scheduling order to continue the date to amend the complaint will
6 allow for additional time for Plaintiffs to obtain the investigation materials needed to
7 clearly identify the shooting officer.

8 **IV. CONCLUSION**

9 For the foregoing reasons, Plaintiffs respectfully requests that the Court grant
10 them leave to file a First Amended Complaint to substitute Officer Caleb Garcia
11 Alamilla in place of a Doe defendant. In the alternative, Plaintiffs request that the
12 Scheduling Order be modified to allow Plaintiffs' an additional sixty (60) days to
13 hear their motion to amend the complaint.

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15 DATED: January 14, 2024

LAW OFFICES OF DALE K. GALIPO

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17 By /s/ Eric Valenzuela
18 ERIC VALENZUELA
19 Attorney for Plaintiffs
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